

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STATE FARM MUTUAL AUTOMOBILE)
INSURANCE COMPANY as subrogee)
of Cynthia Thomas),)
)
Plaintiff,)
)
) Civil Action No. 07-543-***
v.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)

**MOTION TO DISMISS OR, IN THE ALTERNATIVE,
FOR SUMMARY JUDGMENT**

Comes now the United States and moves the Court to dismiss the Complaint in the captioned matter or, in the alternative, to grant summary judgment in its favor and, in support thereof, avers as follows:

1. The Court lacks subject matter jurisdiction over the matter, so the Complaint should be dismissed pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.
2. The Complaint fails to state a claim upon which relief can be granted, so it should be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.
3. In the alternative, if the Court considers the attachment to the Opening Brief submitted in support of this motion, summary judgment in favor of the United States is appropriate, pursuant to Federal Rule of Civil Procedure 56.

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United States Attorney

/s/ Patricia C. Hannigan

BY:

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